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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ALTERA LAW GROUP, LLC  
6500 CITY WEST PARKWAY  
SUITE 100  
MINNEAPOLIS, MN 55344-7704

EXAMINER

NATIVIDAD, PHILIP SANA

ART UNIT PAPER NUMBER

2877

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/014,278

Applicant(s)

HEDIN ET AL.

Examiner

Phil Natividad

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-- The MAILING DATE of this communication appears on the reverse with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☒ Claim(s) 5 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 5 and 30 are objected to because of the following informalities: "he" appears to be a typographical error for --the--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 26, 34; 2, 27; 5, 30; 7, 37; 16, 40; 19-21 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ackerman et al. (6,186,937). As to claim 1, Ackerman discloses fringe-producing optical element (110), detector unit (120) including at least three detector elements (130), and control (400). Further as to claim 5, note additional detector elements (130). Further as to claim 26, note col. 1 lines 27-28 disclosing use in optical communications system. Further, as to claim 34, Ackerman discloses laser (200), optical element (110), detector unit (120) including at least three detector elements (130), and control (400).
4. Claims 3-4, 28-29, 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Ackerman et al. A phase separation according to applicant's equations is inherent with

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Ackerman's plurality of (regularly spaced) detectors.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackerman et al. Ackerman et al. discloses applicant's invention as applied to claim 1, above. Claims 6 and 8 merely recite limitations of simple redirection of light in addition to independent claim 1, rejected above. It would have been obvious to one of ordinary skill in the art to obtain applicant's claimed limitations as recited, for motivation of e.g. more compactness or folding.

7. Claims 16-25, 35-36, 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackerman et al. As applied to claim 1 above, Ackerman discloses applicant's invention. Ackerman does not disclose further specifics such as claim 22 details of mounting the elements on a plate, or e.g. claim 25/45 details of power supplies; however, such details would have been obvious to one of ordinary skill in the art of which Official Notice is taken, for motivation of adapting the teachings/advantages of Ackerman to various embodiments.

8. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackerman et al. As applied to claim 26 above, Ackerman teaches a plurality of detectors in wavelength-locking, advantageous for use in optical communications systems (col. 1 lines 27-28), except without expressly disclosing fiber amplifiers, two lasers, or specific WDM elements. However,

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it would have been obvious to one of ordinary skill in the art to use the teachings of Ackerman with these well-known teachings of optical communications, of which Official Notice is taken, for motivation of adapting these teachings/advantages of Ackerman to known embodiments of WDM optical communications systems.

### ***Double Patenting***

9. Claims 1, 26, 34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 19 of copending Application No. 10/015,151. Claims 20-21 are provisionally rejected over claims 20, 29 of Application No. 10/015,151. Although the conflicting claims are not identical, they are not patentably distinct from each other because the device claimed inherently practices the method claimed in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 10-15, 39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of copending Application No. 09/871,230 in view of Ackerman et al. As applied to independent claim 1 above, Ackerman discloses a plurality of detector elements, which when combined with 09/871,230 teachings of non-parallel etalons, would obviously to one of ordinary skill result in claims 10-15, for motivation of e.g. determining/obtaining a desired phase characteristic of an etalon (Ackerman col. 1-2).

This is a provisional obviousness-type double patenting rejection.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner can be directed to Phil Natividad whose telephone number is 703-306-5944. The examiner can normally be reached on Tuesday through Friday and alternating Mondays; and supervising patent examiner Frank G. Font can be reached at 703-308-4881.


In view of delays in mail delivery in recent days, we at the USPTO would like to encourage you to communicate with the USPTO via facsimile. Facsimile transmissions may be used for correspondence as set forth in 37 CFR 1.6 such as: amendments, petitions for extension of time, authorization to charge a deposit account, an IDS, terminal disclaimers, a notice of appeal, an appeal brief, CPAs under 37 CFR 1.53(d), and RCEs.

PTO Form 2038 should be used when authorizing payment by credit card; this form is maintained separate from the file to ensure confidentiality.

The USPTO has recently installed server software that enables us to automatically receive facsimile transmissions and route them to the appropriate groups. No special equipment is needed by our customers to use this system other than a regular facsimile machine. Each Technology Center has its own facsimile numbers associated with our server for Official replies to non-final Office actions and for Official replies to final Office actions. In addition, each Technology Center has a Customer Service Center on our server system, and can answer any general application status questions you might have, can provide Examiner information, and answer paper queries.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 or 703-308-7722 for regular communications and 703-872-9319 or 703-308-7722 for After Final communications.

Tech Center 2800 Customer Service is at 703-306-3329 or 703-872-9317. Any inquiry of a general nature or relating to the status of this application or proceeding can also be directed to the receptionist whose telephone number is 703-308-0956.

  
Phil Natividad  
Patent Examiner  
psn  
March 10, 2003

  
FRANK G. FONT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800